

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MARK WHITE,

Plaintiff,

v.

Case No. 13-15073

ROSLYN JINDAL, et al.,

HONORABLE AVERN COHN

Defendants.

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ORDER
ADOPTING REPORT AND RECOMMENDATION (Doc. 31)
AND
GRANTING PLAINTIFF'S MOTION FOR IMMEDIATE TEMPORARY INJUNCTION
(Doc. 3)
AND
DENYING AS MOOT PLAINTIFF'S MOTION FOR EXPEDITED REVIEW OF
IMMEDIATE RESTRAINING ORDER (Doc. 10)
AND
DENYING PLAINTIFF'S MOTION FOR JUDGMENT ON THE PLEADINGS (Doc. 19)

I.

This is a prisoner civil rights case under 42 U.S.C. § 1983. Plaintiff is proceeding pro se¹ and the matter has been referred to a magistrate judge for all pretrial proceedings. Plaintiff raises a host of claims against defendants, all of whom are either employees or otherwise affiliated with the Michigan Department of Corrections (MDOC). Plaintiff filed a Emergency Motion for Immediate Temporary Injunction to Prevent Physical Injury or Death (Doc. 3), a Motion for Expedited Review for Immediate

¹Plaintiff recently filed a motion for the appointment of counsel which is pending before the magistrate judge. (Doc. 39).

Restraining/Injunctive Order (Doc. 10), and a motion for Judgment on the Pleadings (Doc. 19).

The magistrate judge issued a report and recommendation (MJRR), recommending that plaintiff's Emergency Motion for Immediate Temporary Injunction be granted, that plaintiff's Motion for Expedited Review for Immediate Restraining/Injunctive Order be denied as moot, and plaintiff's Motion for Judgment on the Pleadings be denied. As to the form of injunctive relief, the magistrate judge recommends that the Court order "Defendants to transfer Plaintiff to an MDOC facility that does not have a 'high concentration' of members of the Gangster's Disciples prison gang." (Doc. 31 at p. 3). This is so because the magistrate judge concluded that plaintiff has met his burden of showing injunctive relief is warranted based on his fear for his safety.

II.

No party has filed objections to the MJRR and the time for filing objections has passed.² The parties' failure to file objections to the report and recommendation waives any further right to appeal. Smith v. Detroit Federation of Teachers Local 231, 829 F.2d 1370, 1373 (6th Cir.1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the motion. Thomas v. Arn, 474 U.S. 140, 149 (1985). However, the Court has reviewed the MJRR and agrees with the magistrate judge that plaintiff is entitled to a form of injunctive relief and is not

²Not only did defendants not object to the MJRR but they also did not respond to plaintiff's motion for injunctive relief with regard to his transfer request due to his safety concerns. As the magistrate judge noted, defendants' failure to respond is troubling. See MJRR at p. 11.

entitled to judgment on the pleadings.

Accordingly, plaintiff's Emergency Motion for Immediate Temporary Injunction is GRANTED. Plaintiff's Motion for Expedited Review for Immediate Restraining/Injunctive Order is DENIED AS MOOT. Plaintiff's Motion for Judgment on the Pleadings is DENIED.

Defendants shall transfer plaintiff to an MDOC facility that does not have a "high concentration" of members of the Gangster's Disciples prison gang.

SO ORDERED.

S/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

Dated: April 22, 2014
Detroit, Michigan

I hereby certify that a copy of the foregoing document was mailed to the attorneys of record on this date, April 22, 2014, by electronic and/or ordinary mail.

S/Sakne Chami
Case Manager, (313) 234-5160